

Message Text

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PAGE 01 STATE 056103
ORIGIN NODS-00

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INFO WHITE HOUSE PRIORITY

S E C R E T STATE 056103

NODIS
FOR CHARGE ONLY; WH FOR DR. BRZEZINSKI EYES ONLY

E.O. 11652: X-GDS-2

TAGS: PFOR, MX

SUBJECT: BOYCE/LEE ESPIONAGE CASE

1. DURING LOPEZ PORTILLO VISIT TO US, BRZEZINSKI DISCUSSED WITH MEXICAN PRESIDENT IMPORTANCE WE ATTACH TO HAVING DEPOSITIONS FROM FOUR MEXICAN WITNESSES (CORPORALS HUMBERTO VARGAS FLORES AND GREGORIA TAMAYO PACHECO, SERGEANT ROBERTO CARDONA AVILA, AND MAYOR INSPECTOR REYNALDO LOPEZ MALVAEY, ALL OF METROPOLITAN POLICE MEXICO CITY) AVAILABLE FOR USE IN SUBJECT CASE. LOPEZ PORTILLO RESPONDED THAT HE WOULD DISCUSS MATTER WITH FONSEC ROEL AND THAT THEY WOULD DO ALL THEY COULD TO PROVIDE NECESSARY DEPOSITIONS.

2. HOWEVER, FURTHER DISCUSSIONS WITH THE DEPT. OF JUSTICE REPRESENTATIVES INDICATE THAT PRODUCTION OF THIS EVIDENCE SOLELY BY DEPOSITION IN MEXICO IS NOT FEASIBLE BECAUSE THE DEFENDANTS WOULD HAVE TO BE PRESENT AT THE TAKING OF
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ANY DEPOSITIONS. THE DEFENDANTS APPEARANCE UNDER THESE CIRCUMSTANCES IN MEXICO WOULD LEAD TO SERIOUS SECURITY AND PUBLICITY PROBLEMS IN ADDITION TO THE LOSS OF JURISDICTION BY U.S. OVER DEFENDANTS UPON LEAVING THE U.S. DEPARTMENT OF JUSTICE REQUESTS THAT MEXICAN OFFICIALS EITHER A) COME TO U.S. TO GIVE THEIR DEPOSITION, OR B) SIMPLY APPEAR AND TESTIFY AT TRIAL AS ORDINARY WITNESSES.

WE PREFER OPTION B.

3. YOU SHOULD THEREFORE SEEK APPOINTMENT WITH ROEL TO LEARN IF PRESIDENT LOPEZ PORTILLO DISCUSSED MATTER WITH HIM. IF ROEL INDICATES PRESIDENT HAS NOT RAISED SUBJECT WITH HIM, SEEK APPOINTMENT WITH LOPEZ PORTILLO TO REMIND HIM OF HIS CONVERSATION WITH BRZEZINSKI AND IMPRESS UPON HIM OUR CONTINUING STRONG INTEREST IN MEXICO'S COOPERATION IN THIS CASE. IT WILL BE NECESSARY TO EXPLAIN TO ROEL/ LOPEZ PORTILLO DEPARTMENT OF JUSTICE'S MOST RECENT REQUEST.

4. WE ARE PROVIDING THE FOLLOWING POINTS FOR YOU TO DRAW UPON IN YOUR CONVERSATIONS WITH THE FOREIGN SECRETARY AND/OR THE PRESIDENT.

A. IT IS INEVITABLE THAT THE FACT OF THE ORIGINS OF THE CASE WILL BECOME PUBLIC KNOWLEDGE IN LITIGATION OF THE CASE AS THEY ALREADY HAVE.

B. FOR THE REASONS DISCUSSED IT IS NOT POSSIBLE TO TAKE THE DEPOSITIONS OF MEXICAN POLICE OFFICERS IN MEXICO.

C. IF THOSE OFFICERS WERE TO COME TO THE UNITED STATES TO BE DEPOSED, THEIR DEPOSITIONS WOULD BE READ INTO THE PUBLIC RECORD OF TRIAL AND THEREFORE GIVE FURTHER EXPOSURE TO THE MEXICAN ROLE.

D. UNDER THESE CIRCUMSTANCES, IT IS ADVISABLE THAT THE MEXICAN POLICE AUTHORITIES SIMPLY APPEAR AND TESTIFY
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AT THE TRIAL AS ORDINARY WITNESSES.

E. IF MEXICAN AUTHORITIES ARE WILLING TO SO TESTIFY, THE U.S. ATTORNEYS HANDLING THE PROSECUTION WILL MAKE EVERY EFFORT TO ASSURE THAT THE TESTIMONY IS GIVEN UNDER THE USUAL CONDITIONS IN A DIGNIFIED MANNER IN AN AMERICAN COURTROOM AND THAT THEY WILL NOT BE SUBJECTED TO ANY ABUSE OR HARASSMENT.

F. EMPHASIS SHOULD BE PLACED ON THE INTENTION OF THE U.S. GOVERNMENT TO TREAT MEXICAN PARTICIPATION IN THIS CASE AS CONSISTING SOLELY OF ROUTINE LAW ENFORCEMENT COOPERATION. THE TESTIMONY OF THE MEXICAN POLICE OFFICERS WOULD BE LIMITED TO THE ORIGINAL ARREST AND THE OBTAINING OF CERTAIN TANGIBLE ITEMS SEIZED AT THE TIME OF ARREST INCLUDING THE FILM NEGATIVES.

G. EXPENSES ASSOCIATED WITH THIS TRAVEL WILL BE PAID FOR BY THE U.S.

5. PRE TRIAL HEARINGS AND ARGUMENTS ARE SCHEDULED FOR MARCH 21 WITH A TRIAL DATE OF APRIL 4. IT IS IMPORTANT THAT THIS MATTER BE RESOLVED IN SUFFICIENT TIME TO MEET THESE DEADLINES.

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